

January 15, 2020

The Honorable Susan Davis
Chairman
United States House Education
Subcommittee on Higher Education and
Workforce Investment
1214 Longworth House Office Building
Washington, DC 20515-0553

The Honorable Lloyd Smucker
Ranking Member
United States House Education
Subcommittee on Higher Education and
Workforce Investment
127 Cannon House Office Building
Washington, DC 20515-3811

Dear Chairman Davis and Ranking Member Smucker:

Every new rule comes with the risk of unintended negative impact even when the best of intentions exists on both sides. This is particularly prevalent in higher education—a space I know well following seven years as the President and CEO of the Thurgood Marshall College Fund and having served as a Trustee for the University of Miami, Drake University and the Cooper Union. It is with this lens and my current lens as President and CEO of the Society for Human Resource Management, Chair of the President’s Board of Advisors on HBCUs, and member of the White House American Workforce Policy Advisory Board that I feel compelled to provide perspective on the U.S. Department of Education’s updated rule governing borrower defense to repayment.

It’s important to take a step back. Three and a half years ago, the Department unveiled proposed revisions to the borrower defense to repayment rule. During the comment period many constituencies, including the HBCU community, asserted that certain elements of the revisions had the potential to be “injurious and burdensome” and could cause many schools financial harm. These concerns referred mainly to the standard by which institutions would be judged to have misrepresented the conditions of a borrower’s loan, broadening of the definition of “misrepresentation,” and the basis for potential administrative action by the Secretary – including fines or termination from participation in Title IV programs under the Higher Education Act (HEA).

One of Secretary DeVos’s first actions was to postpone the effective date for the proposed borrower defense rules. She then reconvened the negotiated rulemaking committees to address, among other things, the concerns raised by HBCUs and other Minority Serving Institutions that primarily serve first-generation, low-income students. The Secretary encouraged all parties to take a step back and find a solution that would be fairer to students and schools and relieve taxpayers of significant costs.

A year later, having not reached consensus about the best way forward, the Department of Education published its own revised rules clarifying who is eligible for relief, the maximum amount of said relief, and how long a borrower can bring a claim. More importantly, the Department made a commitment to consumer education for students and their families **prior** to them enrolling in

college instead of having them litigate poor college choice decisions after-the-fact when they've poured significant amounts of time and money into earning a degree without any reasonable hope of achieving a fair return on their investment. I'm of the opinion that the Department's new borrower defense rules protect individual borrowers from fraud, ensures accountability across institutions of higher education, and protects taxpayers.

While the resulting new rules are not perfect, they go a long way toward addressing the challenges of students and colleges. The HBCU Community had major concerns about the initial 2016 revisions because they placed all of the accountability on the schools and had a low threshold for punitive action. In addition, many college leaders disagreed with the "triggers" for administrative action. The new rules provide flexibility for schools to make changes to their course offerings and graduation requirements based on costs, student interest and employer needs without being characterized as fraudulent. Now that nearly all of the major concerns raised by the HBCU Community were addressed by the Secretary, it is time to pass the rules so we can put our collective energy into educating America's diverse future workforce.

America has a talent shortage – one that will only get worse in the foreseeable future due to our low birth rate. Adding insult to injury, we have a workforce in critical need of re-skilling with a very large percentage of Americans sitting on the sidelines as a result and not participating in the labor force. As borrowers and schools move forward, both groups should be laser-focused on addressing this issue and improving the employability of the U.S. workforce.

On the front end, borrowers should select schools and programs that lead to good jobs and whose costs are commensurate with salaries for their industry of choice. Then colleges, having enrolled the right students in the right programs, must proactively develop relationships with employers to co-design relevant curricula that meet our country's need for skilled workers.

All parties must put aside petty partisan differences to arm our country with a highly-skilled future U.S. workforce *sans* unnecessarily burdensome student loan debt. Supporting the new borrower defense rules proposed by the Department of Education is an important first step.

Sincerely,



Johnny C. Taylor, Jr.
President & CEO
Society for Human Resource Management

cc: Members of the House Education Subcommittee on Higher Education and Workforce Investment